

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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DONALD BLACKWELDER,

Plaintiff,

Case No. 2:15-cv-02373-JAD-PAL

## ORDER

(Mot. Cancel SC – ECF No. 46)

CHARLES THORNTON, et al.,

## Defendants.

12 Before the court is Plaintiff's Request to Cancel the January 26, 2017, Settlement  
13 Conference to be Conducted by The Honorable Carl W. Hoffman, U.S. Magistrate Court Judge  
14 (ECF No. 46). The court has reviewed the motion, and Defendants' Responses (ECF Nos. 48, 49).

On October 4, 2016, the parties submitted a Stipulation for Settlement Conference (ECF No. 33) which the court granted in an Order (ECF No.35) entered the following day. The Order (ECF No. 34) initially set the settlement conference for January 6, 2017. Due to the scheduling needs of the court, the court entered an Order (ECF No. 41) continuing the settlement conference to January 26, 2017, before The Honorable Judge Hoffman.

The instant motion was filed a week before the scheduled settlement conference. Plaintiff states that “the case is not ready for the settlement conference, and will not be ready by the time of the scheduled settlement conference” as further discovery needs to be completed. Motion (ECF No. 46), 3:2-4. Additionally, the parties have discovery disputes. Finally, Defendants have consistently represented to the Court and counsel for Plaintiff that related litigation in New Jersey has been settled, but recently advised that the case has not settled and is set for trial in mid-February 2017. Plaintiff therefore believes “any settlement of the instant case requires discovery of these contradictory contentions; perhaps even to await the outcome of the New Jersey trial”.

Defendants Brian Howells and Aecos, Ltd. responded to the motion stating that Plaintiff's desire to complete discovery is contrary to earlier statements Plaintiff made that a settlement conference would hopefully avoid further the costs and expenses associated with discovery. Furthermore, the late date in which the motion to cancel was filed forced Defendants to incur fees and costs related to submitting a timely confidential settlement statement. However, Defendants Howells and Aecos, Ltd. do no oppose vacating the settlement conference because any settlement conference the Plaintiff attends involuntarily is not likely to be successful.

Defendant Charles Thornton also does not oppose the motion as it appears the parties are not prepared to engage in settlement discussions. However, Thornton believes that a mandatory settlement conference would be productive in resolving this case. He requests resetting the settlement conference on a date certain within the next 90 to 120 days “to allow the parties to conduct minimally necessary factual investigation.”

The court has an unusually high volume of cases referred for an ENE as well as cases referred by the district judges for mandatory settlement conferences. Requesting to continue the settlement conference a week before the scheduled conference is to take place, especially where the parties have stipulated to the conference and it has been set for several months, is discourteous and delays other parties waiting their turn for an earlier available date. The court will grant the motion, but will not reschedule the settlement conference until after the close of discovery, dispositive motions have been decided, and the case is referred by the district judge.

**IT IS ORDERED** that Plaintiff's Request to Cancel the January 26, 2017, Settlement Conference to be Conducted by The Hon. Carl. W. Hoffman, U.S. Magistrate Court Judge (ECF No. 46) is **GRANTED**.

DATED this 23rd day of January, 2017.

Peggy A. Leen  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE